



General Assembly

Substitute Bill No. 847

January Session, 2005

* SB00847GAE__040505__ *

**AN ACT CONCERNING REPORTING REQUIREMENTS ON
PREVAILING WAGE PROJECTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-53 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2005*):

3 (a) Each contract for the construction, remodeling, refinishing,
4 refurbishing, rehabilitation, alteration or repair of any public works
5 project by the state or any of its agents, or by any political subdivision
6 of the state or any of its agents, shall contain the following provision:
7 "The wages paid on an hourly basis to any person performing the
8 work of any mechanic, laborer or [workman employed upon] worker
9 on the work herein contracted to be done and the amount of payment
10 or contribution paid or payable on behalf of each such [employee]
11 person to any employee welfare fund, as defined in subsection (h) of
12 this section, shall be at a rate equal to the rate customary or prevailing
13 for the same work in the same trade or occupation in the town in
14 which such public works project is being constructed. Any contractor
15 who is not obligated by agreement to make payment or contribution
16 on behalf of such [employees] persons to any such employee welfare
17 fund shall pay to each [employee] mechanic, laborer or worker as part
18 of [his] such person's wages the amount of payment or contribution for
19 [his] such person's classification on each pay day."

20 (b) Any [person] contractor or subcontractor who knowingly or
21 wilfully employs any mechanic, laborer or [workman] worker in the
22 construction, remodeling, refinishing, refurbishing, rehabilitation,
23 alteration or repair of any public works project for or on behalf of the
24 state or any of its agents, or any political subdivision of the state or any
25 of its agents, at a rate of wage on an hourly basis [which] that is less
26 than the rate customary or prevailing for the same work in the same
27 trade or occupation in the town in which such public works project is
28 being constructed, remodeled, refinished, refurbished, rehabilitated,
29 altered or repaired, or who fails to pay the amount of payment or
30 contributions paid or payable on behalf of each such [employee]
31 person to any employee welfare fund, or in lieu thereof to the
32 [employee] person, as provided by subsection (a) of this section, shall
33 be fined not less than two thousand five hundred dollars but not more
34 than five thousand dollars for each offense and (1) for the first
35 violation, shall be disqualified from bidding on contracts with the state
36 or any political subdivision until the contractor or subcontractor has
37 made full restitution of the back wages owed to such persons and for
38 an additional six months thereafter and (2) for subsequent violations,
39 shall be disqualified from bidding on contracts with the state or any
40 political subdivision until the contractor or subcontractor has made
41 full restitution of the back wages owed to such persons and for not less
42 than an additional two years thereafter. In addition, if it is found by
43 the contracting officer representing the state or political subdivision
44 [thereof] of the state that any mechanic, laborer or [workman] worker
45 employed by the contractor or any subcontractor directly on the site
46 for the work covered by the contract has been or is being paid a rate of
47 wages less than the rate of wages required by the contract to be paid as
48 required by this section, the state or contracting political subdivision
49 [thereof] of the state may (A) by written notice to the contractor,
50 terminate such contractor's right to proceed with the work or such part
51 of the work as to which there has been a failure to pay said required
52 wages and to prosecute the work to completion by contract or
53 otherwise, and the contractor and [his] the contractor's sureties shall be
54 liable to the state or the contracting political subdivision for any excess

55 costs occasioned the state or the contracting political subdivision
56 thereby, or (B) withhold payment of money to the contractor or
57 subcontractor. The contracting department of the state or the political
58 subdivision [thereof] of the state shall, [within] not later than two days
59 after taking such action, notify the Labor Commissioner, in writing, of
60 the name of the contractor or subcontractor, the project involved, the
61 location of the work, the violations involved, the date the contract was
62 terminated, and steps taken to collect the required wages.

63 (c) The Labor Commissioner may make complaint to the proper
64 prosecuting authorities for the violation of any provision of subsection
65 (b).

66 (d) For the purpose of predetermining the prevailing rate of wage
67 on an hourly basis and the amount of payment or contributions paid or
68 payable on behalf of each [employee] person to any employee welfare
69 fund, as defined in subsection (h) of this section, in each town where
70 such contract is to be performed, the Labor Commissioner shall (1)
71 hold a hearing at any required time to determine the prevailing rate of
72 wages on an hourly basis and the amount of payment or contributions
73 paid or payable on behalf of each person to any employee welfare
74 fund, as defined in subsection (h) of this section, upon any public work
75 within any specified area, and shall establish classifications of skilled,
76 semiskilled and ordinary labor, or (2) adopt and use such appropriate
77 and applicable prevailing wage rate determinations as have been made
78 by the Secretary of Labor of the United States under the provisions of
79 the Davis-Bacon Act, as amended.

80 (e) The Labor Commissioner shall determine the prevailing rate of
81 wages on an hourly basis and the amount of payment or contributions
82 paid or payable on behalf of such [employee] person to any employee
83 welfare fund, as defined in subsection (h) of this section, in each
84 locality where any such public work is to be constructed, and the agent
85 empowered to let such contract shall contact the Labor Commissioner,
86 at least ten but not more than twenty days prior to the date such
87 contracts will be advertised for bid, to ascertain the proper rate of

88 wages and amount of employee welfare fund payments or
89 contributions and shall include such rate of wage on an hourly basis
90 and the amount of payment or contributions paid or payable on behalf
91 of each [employee] person to any employee welfare fund, as defined in
92 subsection (h) of this section, or in lieu thereof the amount to be paid
93 directly to each [employee] person for such payment or contributions
94 as provided in subsection (a) of this section for all classifications of
95 labor in the proposal for the contract. The rate of wage on an hourly
96 basis and the amount of payment or contributions to any employee
97 welfare fund, as defined in subsection (h) of this section, or cash in lieu
98 thereof, as provided in subsection (a) of this section, shall, at all times,
99 be considered as the minimum rate for the classification for which it
100 was established. Prior to the award of any contract subject to the
101 provisions of this section, such agent shall certify in writing to the
102 Labor Commissioner the total dollar amount of work to be done in
103 connection with such public works project, regardless of whether such
104 project consists of one or more contracts. Upon the award of any
105 contract subject to the provisions of this section, the contractor to
106 whom such contract is awarded shall certify, under oath, to the Labor
107 Commissioner the pay scale to be used by such contractor and any of
108 [his] the contractor's subcontractors for work to be performed under
109 such contract.

110 (f) Each employer subject to the provisions of this section or section
111 31-54 shall (1) keep, maintain and preserve such records relating to the
112 wages and hours worked by each [employee] person performing the
113 work of any mechanic, laborer and worker and a schedule of the
114 occupation or work classification at which each person performing the
115 work of any mechanic, laborer or [workman] worker on the project is
116 employed during each work day and week in such manner and form
117 as the Labor Commissioner establishes to assure the proper payments
118 due to such [employees] persons or employee welfare funds under this
119 section or section 31-54, regardless of any contractual relationship
120 alleged to exist between the contractor and such person, and (2) submit
121 monthly to the contracting agency a certified payroll [which] that shall

122 consist of a complete copy of such records accompanied by a statement
123 signed by the employer [which] that indicates [that] (A) such records
124 are correct; (B) the rate of wages paid to each person performing the
125 work of any mechanic, laborer or [workman] worker and the amount
126 of payment or contributions paid or payable on behalf of each such
127 [employee] person to any employee welfare fund, as defined in
128 subsection (h) of this section, are not less than the prevailing rate of
129 wages and the amount of payment or contributions paid or payable on
130 behalf of each such [employee] person to any employee welfare fund,
131 as determined by the Labor Commissioner pursuant to subsection (d)
132 of this section, and not less than those required by the contract to be
133 paid; (C) the employer has complied with the provisions of this section
134 and section 31-54; (D) each such [employee] person is covered by a
135 workers' compensation insurance policy for the duration of [his] such
136 person's employment, which shall be demonstrated by submitting to
137 the contracting agency the name of the workers' compensation
138 insurance carrier covering each such [employee] person, the effective
139 and expiration dates of each policy and each policy number; (E) the
140 employer does not receive kickbacks, as defined in 41 USC 52, from
141 any employee or employee welfare fund; and (F) pursuant to the
142 provisions of section 53a-157a, the employer is aware that filing a
143 certified payroll which [he] the employer knows to be false is a class D
144 felony for which the employer may be fined up to five thousand
145 dollars, imprisoned for up to five years, or both. This subsection shall
146 not be construed to prohibit a general contractor from relying on the
147 certification of a lower tier subcontractor, provided the general
148 contractor shall not be exempted from the provisions of section 53a-
149 157a if [he] the general contractor knowingly relies upon a
150 subcontractor's false certification. Notwithstanding the provisions of
151 section 1-210, the certified payroll shall be considered a public record
152 and every person shall have the right to inspect and copy such records
153 in accordance with the provisions of section 1-212. The provisions of
154 [sections 31-59(a), 31-59(b),] subsections (a) and (b) of section 31-59 and
155 sections 31-66 and 31-69 [which] that are not inconsistent with the
156 provisions of this section or section 31-54 [shall] apply to this section.

157 Failing to file a certified payroll pursuant to subdivision (2) of this
 158 subsection is a class D felony for which the employer may be fined up
 159 to five thousand dollars, imprisoned for up to five years, or both.

160 (g) The provisions of this section [shall] do not apply where the total
 161 cost of all work to be performed by all contractors and subcontractors
 162 in connection with new construction of any public works project is less
 163 than four hundred thousand dollars or where the total cost of all work
 164 to be performed by all contractors and subcontractors in connection
 165 with any remodeling, refinishing, refurbishing, rehabilitation,
 166 alteration or repair of any public works project is less than one
 167 hundred thousand dollars.

168 (h) As used in this section, section 31-54 and section 31-89a,
 169 "employee welfare fund" means any trust fund established by one or
 170 more employers and one or more labor organizations or one or more
 171 other third parties not affiliated with the employers to provide from
 172 moneys in the fund, whether through the purchase of insurance or
 173 annuity contracts or otherwise, benefits under an employee welfare
 174 plan; provided such term shall not include any such fund where the
 175 trustee, or all of the trustees, are subject to supervision by the Banking
 176 Commissioner of this state or any other state or the Comptroller of the
 177 Currency of the United States or the Board of Governors of the Federal
 178 Reserve System, and "benefits under an employee welfare plan" means
 179 one or more benefits or services under any plan established or
 180 maintained for [employees] persons performing the work of any
 181 mechanics, laborers or workers or their families or dependents, or for
 182 both, including, but not limited to, medical, surgical or hospital care
 183 benefits; benefits in the event of sickness, accident, disability or death;
 184 benefits in the event of unemployment, or retirement benefits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2005	31-53

LAB *Joint Favorable Subst.*

GAE *Joint Favorable*